

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CYBERFONE SYSTEMS, LLC (formerly	)	
known as LVL PATENT GROUP, LLC),	)	
	)	
Plaintiff,	)	
	)	C.A. No. 11-827 (SLR)
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
CELLCO PARTNERSHIP, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ANSWER OF VIRGIN MOBILE USA LP TO CYBERFONE'S FIRST AMENDED  
COMPLAINT FOR PATENT INFRINGEMENT**

Defendant Virgin Mobile USA, L.P. ("Virgin") responds to the allegations of the First Amended Complaint ("FAC") as follows:

**PARTIES**

1. Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

2. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

3. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

4. Virgin admits that Sprint Spectrum LP ("Sprint") is a Delaware limited partnership. Virgin denies any remaining allegations of this paragraph.

5. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

6. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

7. Virgin admits that it is a Delaware limited partnership. Virgin denies any remaining allegations of this paragraph.

8. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

9. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

10. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

11. Virgin admits that Boost Mobile LLC is a Delaware limited liability company. Virgin denies any remaining allegations of this paragraph.

12. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

13. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

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18. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

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25. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

26. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

27. Virgin admits that the FAC purports to collectively refer to Verizon, AT&T, Sprint, T-Mobile, Cricket, Virgin, U.S. Cellular, MetroPCS, TracFone, and Boost as “Wireless Carriers.”

28. Virgin admits that the FAC purports to collectively refer to Apple, RIM, Nokia, Samsung, Motorola, HTC, Sharp, Pantech, LG, HP, Sony, Ericsson, Casio, Huawei, ZTE, and Kyocera as “Wireless Handset Manufacturers.”

**JURISDICTION AND VENUE**

29. Virgin admits that Plaintiff brings this action under the patent laws of the United States and purports to base subject matter jurisdiction on 28 U.S.C. §§ 1331 and 1338(a). Virgin denies that this action has any merit as to it and otherwise denies the allegations of this paragraph.

30. Virgin does not contest that it is subject to personal jurisdiction or that venue is proper in this action. Virgin otherwise denies the allegations of this paragraph that pertain to it. Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph as to other defendants and therefore denies the allegations.

**COUNT I**  
**(Infringement of U.S. Patent No. 6,044,382)**

31. Virgin admits that a copy of United States Patent No. 6,044,382 (“the ‘382 patent”), entitled “Data Transaction Assembly Server,” is attached as Exhibit A to the FAC, and that the ‘382 patent states on its face that it issued on March 28, 2000. Virgin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies the allegations.

32. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

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37. Virgin denies the allegations of this paragraph.

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59. Virgin denies the allegations of this paragraph to the extent they are directed to it. Virgin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph as to other defendants and therefore denies those allegations.

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**COUNT II**  
**(Infringement of U.S. Patent No. 5,805,676)**

61. Virgin admits that a copy of United States Patent No. 5,805,676 (“the ‘676 patent”), entitled “Telephone/Transaction Entry Device and System for Entering Transaction Data Into Databases,” is attached as Exhibit B to the FAC, and that the ‘676 patent states on its face that it issued on September 8, 1998. Virgin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies the allegations.

62. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

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67. Virgin denies the allegations of this paragraph.

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88. Virgin denies the allegations of this paragraph to the extent they are directed to it. Virgin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph as to other defendants and therefore denies those allegations.

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**COUNT III**  
**(Infringement of U.S. Patent No. 5,987,103)**

90. Virgin admits that a copy of United States Patent No. 5,987,103 (“the ‘103 patent”), entitled “Telephone/Transaction Entry Device and System for Entering Transaction



Data Into Databases,” is attached as Exhibit C to the FAC, and that the ‘103 patent states on its face that it issued on November 16, 1999. Virgin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies the allegations.

91. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

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96. Virgin denies the allegations of this paragraph.

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**COUNT IV**  
**(Infringement of U.S. Patent No. 8,019,060)**

118. Virgin admits that a copy of United States Patent No. 8,019,060 (“the ‘060 patent”), entitled “Telephone/Transaction Entry Device and System for Entering Transaction

Data Into Databases,” is attached as Exhibit D to the FAC, and that the ‘060 patent states on its face that it issued on September 13, 2011. Virgin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies the allegations.

119. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

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**COUNT V**  
**(Infringement of U.S. Patent No. 7,334,024)**

131. Virgin admits that a copy of United States Patent No. 7,334,024 (“the ‘024 patent”), entitled “System for Transmission of Voice and Data over the Same Communications Line,” is attached as Exhibit E to the FAC, and that the ‘024 patent states on its face that it issued on February 19, 2008. Virgin is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph and therefore denies the allegations.

132. This paragraph concerns a different defendant than Virgin and therefore does not require a response from Virgin. To the extent a response is required, Virgin is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph and therefore denies the allegations.

**ANSWER TO CYBERFONE’S PRAYER FOR RELIEF**

Virgin denies that CyberFone is entitled to any of the relief requested in its prayer for relief.

**DEFENSES**

Without any admission as to the burden of proof or as to any of the allegations in the FAC, except as expressly admitted above, Virgin asserts the following defenses. Virgin reserves the right to raise additional defenses as they become known through further investigation and discovery.



### **First Defense**

Virgin has not infringed any valid claim of the '382, '676, '103, or '060 patents (collectively "the asserted patents").

### **Second Defense**

One or more claims of the asserted patents are invalid under one or more sections of the Patent Act, Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and 112.

### **Third Defense**

CyberFone is estopped from asserting any interpretation of the asserted patents that would be broad enough to cover any of Virgin's methods, products or services alleged to infringe the asserted patents, literally or under the doctrine of equivalents.

### **Fourth Defense**

CyberFone's claims are barred in whole or in part by the doctrines of waiver, laches, acquiescence, estoppel, implied license, and/or other equitable remedies.

### **Fifth Defense**

CyberFone's claim for damages is barred, in whole or in part, for failure to comply with 35 U.S.C. §§ 286, 287 and/or 288.

### **Sixth Defense**

CyberFone's claims for relief are barred in whole or in part by prosecution history estoppel and/or prosecution history disclaimer.

### **Seventh Defense**

The FAC fails to state a claim upon which relief may be granted against Virgin and/or fails to plead the required allegations with sufficient particularity.

### **Eighth Defense**

CyberFone is not entitled to injunctive relief as it has, at a minimum, an adequate remedy at law and will not suffer any irreparable harm.

### **PRAYER FOR RELIEF**

WHEREFORE, Virgin requests that the Court enter judgment in favor of Virgin and against CyberFone on each of CyberFone's claims and further requests that the Court:

(A) deny each request for relief made by CyberFone, and dismiss the FAC with prejudice as to Virgin;

(B) deem this to be an exceptional case and award Virgin its attorneys' fees pursuant to 35 U.S.C. § 285;

(C) award Virgin its costs and expenses; and

(D) award Virgin such other and further relief as the Court deems just and proper.

### **DEMAND FOR JURY TRIAL**

Virgin demands a trial by jury of all issues triable by jury.

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May 21, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that on May 21, 2012 I electronically filed the foregoing document, which will send notification of such filing(s) to all registered participants.

I also certify that copies were caused to be served on May 21, 2012 upon the following in the manner indicated:

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